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If you don't agree... UI and you: Your right to appeal

When you don't agree ...

To collect unemployment insurance, you must meet certain requirements and rules.

When we think you don't, we can decide not to pay you UI benefits.

For example, your UI agent may disqualify you from benefits if you quit your job without just cause or were fired for misconduct.

If you don't agree with our decision, get in touch with your UI agent immediately and explain why you don't agree. Before you decide to appeal think of these points: Have you given your UI agent all the details of your case? Have you any new information which should be passed on to your agent?

Whenever you have **any** information that might affect the decision, let the agent know at once. (And, of course, if you don't understand **why** the decision was made, ask your agent to explain.)

If your new information warrants it, the agent can change the decision.

Generally, we would have to check this information. For example, we might have to contact your former employer to confirm the reason you quit your job. We might also confirm with you the reason a former employer gives us for having fired you.

If the UI agent does not alter the decision – and you still feel it is wrong – you may appeal to a Board of Referees. But remember, **you must appeal within 30 days of the original decision.**

Sometimes, your employer can appeal our decision to pay you benefits. Whenever a decision is made affecting payment, you'll get a notice from UI.

The Board of Referees

When you appeal, the case goes before the local Board of Referees.

The board will make a decision on the point or points at issue. It may agree with the UI agent's decision, or it may change it. However, the board cannot change the law.

The hearing will be informal. However, generally it will be taperecorded.

Although the hearing will probably be held in the local Canada Employment Centre, the

board members are **not** UI employees. They are members of an independent administrative tribunal.

Three people make up the board: the chairperson and two members.

The chairperson is appointed by the Governor-in-Council. The two members are recommended by unions and employer associations and are appointed by the Canada Employment and Immigration Commission.

However, neither the chairperson nor the two members represent you, your employer nor the Commission. Instead, they must be impartial.

Their decisions are based upon an evaluation of all the relevant evidence, in terms of the UI legislation, and decisions of Umpires.

(Umpires are normally judges of the Federal Court of Canada hearing UI appeals from decisions of Boards of Referees.)

How do you appeal?

First, you would have received a letter from UI telling you of our decision.

You may want to talk this over with your UI agent, bringing in any new information you have – and making sure that you understand **why** we made that decision.

Then, **within 30 days** of getting written notice of our decision, you must write to us at your Canada Employment Centre (CEC) stating clearly that you wish to appeal the decision to a Board of Referees. This letter should also

- give your reasons for appealing,
- state whether you want the appeal to be heard in French or English,
- include your Social Insurance Number,
- state whether someone will be representing you at the hearing or whether you will represent yourself. (It is usually to your advantage to be present whether or not you have a representative.)

Make sure your letter is signed.

The UI Act and Regulations and decisions of Umpires (CUBs) are available for review in your local Canada Employment Centre.

You're welcome to consult this information in preparing your appeal and to ask your UI agent questions concerning the appeal.

Ordinarily, the appeal must be filed within 30 days; however, this 30-day limit may be extended under special circumstances.

During your appeal, continue sending us your claimant's reports.

This will ensure rapid payment if you win your appeal to the Board of Referees or, if applicable, when the period for which benefits were refused to you is over.

What happens at UI?

As soon as the CEC office gets your letter, your claim will be reviewed again.

If this review does not change the decision, an officer will prepare a submission to the Board of Referees.

All the information and documents UI used to make its decision on your claim and your reasons for appealing will be included. You will be sent a copy of the submission.

This submission is an important document. If you feel the submission is incomplete or incorrect, tell the officer what is wrong – either by writing or visiting your local CEC office.

The board's decision is based on **all** evidence placed before it. This includes evidence obtained during the hearing.

What happens at the board?

At least a week before the hearing date, UI will tell you when, where and what time the appeal will be heard.

Appeals are normally heard within 30 days after you have written that you want to appeal.

You or a representative familiar with the facts of your case may attend the hearing.

While attendance at a hearing is entirely voluntary and at your own expense, it would be to your advantage to attend because you may bring forward new evidence at the hearing. Your former employer may attend.

Your presence would therefore assist the board in arriving at a proper decision.

But if you neither attend nor are represented, the board of referees will base its decision on the written evidence placed before it and on any additional evidence brought by those people who did attend the hearings.

Whatever you decide, please tell the CEC office what you intend to do. If you can't



plead your case in either English or French, you should bring an interpreter with you to the hearing.

In certain cases, however, the chairperson of the board may decide you ought to attend. If so, you will be informed in writing and later reimbursed the costs of attending. Check with the CEC about which costs can be refunded.

In all instances, the hearing itself is free.

Hearings are generally **tape-recorded** in case the board's decision is appealed and a higher court wishes to review the proceedings at some future date.

When the board decides your case, you will be informed of the decision in writing.

Appeal to the Umpire

If the board decides against you, you can appeal to a higher level - the Umpire. Ordinarily, the appeal to the Umpire must be made **within 60 days**. (The Umpire may extend this 60-day limit if there are special circumstances.)

You must give the reasons you feel the board's decision was incorrect. Simply disagreeing with the board's decision is not sufficient reason to launch an appeal. Your appeal must be in writing and be based on one or more of these grounds.

- The Board of Referees failed to give you an impartial hearing or failed to give you a reasonable opportunity to present your case or did not operate within the limits of its jurisdiction.
- The Board of Referees erred in law in making its decisions.
- The Board of Referees based its decision on a misinterpretation of the facts.

What if the Board of Referees decided you should be paid benefits but UI or your former employer disagrees? Then either UI or your employer can appeal to the Umpire in the next 60 days. If such an appeal is made **within 21 days**, payment of your benefits can be withheld, even if the board's decision was in your favor. After 21 days if an appeal has not been made, you're entitled to the payments allowed by the board.

If your appeal is to be heard by an Umpire you have the right to attend and be represented at the hearing.

You will have to pay your own travel and loss-of-salary costs unless the Umpire feels you must be there. If so, the Umpire will ask you in writing to attend the hearing. You will be reimbursed later. Whether or not you are asked by the Umpire to be at the hearing, it is usually to your advantage to attend.

The Umpire is generally a judge of the Federal Court of Canada. Hearings by the Umpire are kept as simple as possible. The Umpire decides whether or not the law has

been properly applied. Umpires can reverse the decision of the board, uphold it, modify it or return it to the board.

The decision of the Umpire is normally final. (There are cases where further appeals may be heard by the Federal Court of Appeal, or more rarely, the Supreme Court of Canada.)

If you feel that an appeal to the Umpire is justified, please contact your local CEC office, where you will be told what to do.

Unemployment Insurance - working with you between jobs

This material has been produced with one objective in mind - to help and inform you. There may be some questions we didn't answer for you in this brochure. Why not contact your local Canada Employment Centre (CEC) and ask for copies of our other brochures. We cover everything from general rights and obligations of claimants to special benefits, such as sickness, maternity and parental.

Your rights under the Privacy Act

Under the Privacy Act, you have the right, on written request, to have access to records held by the federal government that contain personal information about you. You also have the right to request correction to that information and have notations made to your file if a request for correction has not been accepted.

To find out more about your rights and the uses of your unemployment insurance, employment and immigration records, consult the publication entitled *Info Source (Sources of Federal Government Information)*.

Copies of *Info Source* are available for public reference at your local Canada Employment Centre.

A reminder

Knowingly making false or misleading statements is an offence under the law. The Canada Employment and Immigration Commission has control programs to detect abuse of the Unemployment Insurance (UI) Program. We also investigate third party reports of UI abuse.

Each year we conduct approximately one million investigations and uncover about 156 million dollars in overpayments. We impose about 145,000 penalties and undertake some 2,000 prosecutions a year.

For further information, contact your local Canada Employment Centre.

Copies of this publication are available on audio-cassette from:

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